IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE N.V. RAMANA**

**WRIT PETITION NO : 24736 of 1995**

Between:

1 M.Raghavulu s/o.Ramaiah
R/o. h.no.11.23.1258 Pochamma maidan,
Warangal.
2 M.Rajalaxmi w/o.M.Raghavulu
R/o. h.no.11-23-11258, Pochamma maidan, Warangal

**..... Petitioner(s)**

and

1 Warangal Municipal Corporation through its Commissioner-in-office,
S.VN.Road, Warangal
2 Kakatiya Urban Development Authority through its Vice Chairman
Warangal
3 State of Andhra Pradesh through its district collector
Warangal

**.....Respondent(s)**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ order or direction declaring the acts of the respondents by putting a red colour arrow mark to the petitioners' building bearing Municipal No.11-24G.6/30-C(old) corresponding too new No.11-23-213 situate at Deshaipet Road. Warangal Dist., and the thereat of demolition of the petitioners' building as illegal capricious, unreasonable without jurisdiction and authority and contrary to principles of natural justice and fair play and human rights and violative of petitioners' statutory and constitutional rights and consequently directing the respondents1 to 3 not to cause any loss to the petitioners' building or any part thereof in any manner and award damages of Rs.5000/- against the respondents 1 to 3 for causing mental agony to the petitioners and to their family members and pass such other order or orders as are deemed fit and proper.

**Counsel for the Petitioner: MR.BANKATLAL MANDHANI**

**Counsel for Respondents1: None appeared**
**Counsel for the Respondent No.2: MR.C.NARENDER**
**Counsel for respondent No.3: G.P. for Revenue**

**The Court made the following :**

ORAL ORDER:

This writ petition is filed to declare the action of the respondents in putting red colour arrow mark on the petitioners' building bearing No.11-24G-6/30-C (old) – corresponding new number 11-23-213, Deshaipet Road, Warangal, which shows the threat of demolition, as illegal and arbitrary and consequently to direct them not cause any loss to the said building or any part thereof.

The case of the petitioners is they are the absolute owners of the building mentioned above and the 1st respondent after completion of the building by the petitioners, assessed the building for property tax and allotted the house number. While so, the 1st respondent issued a demolition order to the petitioner on the ground that they constructed the house without lay out. The petitioners filed O.S.NO.284 of 1994 on the file of the Principal District Munsif, Warangal against the said order and obtained a decree dated 21-3-1994 restraining the 1st respondent from demolishing the property. It is further stated that, in spite of the decree, on 3-10-1995 the respondents came to the house of the petitioners, marked the building with red line informing that the building would be demolished to the extent of red mark, without any notice or any order to that effect. Aggrieved by the action of the respondents the present writ petition is filed.

While admitting the writ petition, this court by order dated 2-11-1995 directed the respondents not to demolish any portion of the building, pending further orders.

In the counter affidavit filed by the 2nd respondent – Kakatiya Urban Development Authority (KUDA) along with the petition to vacate the stay, it is stated that the petitioners constructed the building in question without any valid permission from the competent authority or KUDA and in violation of the master plan and road development plan. It is further stated that road widening is taken up in the interest of public to avoid accidents and for fee flow of vehicular traffic and as the building of the petitioners is in the road margin it requires to be demolished. Thus, the 2nd

respondent prays to dismiss the writ petition.

Heard the learned counsel for the petitioner and Sri C.Narender, learned Standing Counsel for the 2nd respondent – KUDA.

The learned counsel for the petitioners though fairly admitted that the petitioners have not taken any approval or sanction of approval from the Municipal Corporation or Urban Development Authority for construction of the building, contended that the new Master Plan published in Andhra Pradesh Gazette on 24-11-1971 does not disclose the proposed widening of roads as required under Section 244(1)( c ) of the District Municipalities Act, 1956 and therefore the respondents are not empowered to demolish the building of the petitioners, more so, when there is a decree in favour of the petitioners restraining the respondents from demolishing the building.

The learned Standing Counsel for the 2nd respondent on the other hand submits that since the petitioners have not obtained any valid permission or approval for construction of the building from the concerned authorities and in view of the need for expansion of roads to meet the exigencies of the traffic, as proposed in the new master plan published in Andhra Pradesh Gazette on 24-11-1971, it is obligatory on the part of the respondents to demolish the building in question for public cause.

It is to be noted in the first instance that according to the petitioners, they have already obtained a decree in their favour in O.S.No.284 of 1994, against the 1st respondent - Municipal Corporation. In so far as the 2nd respondent – KUDA is concerned, as can be seen from counter affidavit, the respondents have not given any notice or opportunity of hearing to the petitioners before contemplating the demolition of their building, which is in violation of the principles of natural justice.

Therefore, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioners are directed to submit their explanation or objections to the 2nd respondent, treating the marking of building as notice, for the proposed demolition within one week from the date of receipt of a copy of this order. On filing such objections/explanation, the 2nd respondent shall consider and dispose of the same, after giving opportunity of hearing to the petitioners and take appropriate action thereafter in accordance with law. Till such time, the parties are directed to maintain

status quo obtaining as on today. No costs.

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14-9-2004

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To

1 The Commissioner,

Warangal Municipal Corporation
S.VN. Road, Warangal
2. Vice Chairman
Kakatiya Urban Development Authority, Warangal
3. District Collector,

Warangal

4. Two C.D. copies

5. Two C.Cs. to G.P. for Revenue, High Court of A.P. Hyderabad (OUT)